

ORIGINAL

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JAMES LEE WAGNER,

Plaintiff,

v.

WILLIAM F. WARD, et al.,

Defendants.

**No. 1:CV-00-1290
(Judge Yvette Kane)**

FILED
HARRISBURG, PA
SEP 25 2001
MARY E. DIANDRA, CLERK
[Signature]
Deputy Clerk

MOTION OF DEFENDANTS TO DISMISS THE COMPLAINT

Defendants, through their counsel and pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, hereby request this Court to dismiss the action against them. In support thereof, defendants refer this Court to the brief that will be filed within ten (10) days in accordance with Local Rule 7.5.

Respectfully submitted,

**D. MICHAEL FISHER
Attorney General**

By: *Patrick S. Cawley*
**PATRICK S. CAWLEY
Deputy Attorney General
Attorney I.D. 85575**

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Date: September 25, 2001**

**SUSAN J. FORNEY
Chief Deputy Attorney General
Chief, Litigation Section**

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JAMES LEE WAGNER,

Plaintiff,

V.

WILLIAM F. WARD, et al.,

Defendants.

No. 3:CV-00-1290

(Judge Yvette Kane)

CERTIFICATE OF SERVICE

I, Patrick S. Cawley, Deputy Attorney General for the Commonwealth of Pennsylvania, hereby certify that on September 25, 2001, I served a true and correct copy of the foregoing **Motion of Defendants to Dismiss the Complaint** by causing it to be deposited in the United States Mail, first-class postage prepaid to the following:

James Wagner, BK-5396
SCI-Rockview
Box A
Bellefonte, PA 16823

Patrick S. Cawley
PATRICK S. CAWLEY
Deputy Attorney General